IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TENTH DAY OF MAY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No.1505 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28-6-2004 in W.P. No.10674 of 2004 on the file of the High Court.)

Between:

K.Rajaiah, S/o.Narsimloo,
Yellammagutta, Nizamabad (Urban), R/o. Gajulpet, Nizamabad.

..... APPELLANT

AND

1.The District Collector (CS), Nizamabad District.
2.The Joint Collector (CS), Nizamabad.
3.The Revenue Divisional Officer, Nizamabad.
4. K.Manjusree, D/o. Anjaiah,
R/o. H.No.7-1-39/12/A, Mirch Compound, Nizamabad.
5. D.Chandrasekhar,
Yellammagutta, Nizamabad (Urban), Nizamabad.
(Respondent Nos.4 and 5 are not necessary parties)

.....RESPONDENTS

Counsel for the Appellant: Mr.CH.JANARDHAN REDDY

Counsel for Respondent Nos.1 to 3: G.P. FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORAL JUDGMENT: (per the Hon'ble the Chief Justice)

The petitioner-appellant was appointed as dealer of fair price shop No.44, Nizamabad Town. The authorization was cancelled after the petitioner-appellant was found to be violating the provisions of the A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973. The proceedings relating to cancellation of fair price shop dealership of Shop No.44 became final. However, in the meanwhile, he was allotted with another shop No.21 without notifying the same as required under law. The same was questioned by the 4th respondent by filing an appeal, which was allowed and the revision filed by the appellant against the said order was dismissed. Aggrieved by this, writ petition was preferred, which was dismissed. In nutshell, the appellant is questioning the legality and validity of the order cancelling the authorization of shop No.21.

The appellant has earlier filed writ petition against the orders of cancellation of authorization. It appears that, on the basis of the order passed in that writ petition, the appellant obtained an order for appointing him as dealer of fair price shop No.21, Nizamabad Town, and he was appointed so by the order dated 30-1-1999. One K. Manjusree, respondent No.4, questioned the order of appointing the appellant as fair price shop dealer of Shop No.21, Nizamabad, in appeal. The appeal of respondent No.4 was allowed by the Joint Collector, Nizamabad on the ground that the Revenue Divisional Officer has not followed the procedure in appointing the petitioner-appellant as dealer of fair price shop No.21, on the cancellation of authorization of earlier dealer; therefore, as per the procedure laid down, vacancy has to be notified for fair price shop No.21, and without notifying the vacancy, the appellant was appointed as dealer for shop No.21 and since the appellant's dealership was cancelled, he could not have been appointed as fair price shop dealer of Shop No.21. This order of the Joint Collector was challenged in revision by the petitioner-appellant, which was dismissed. Learned single Judge also dismissed the writ petition.

The grievance of the petitioner-appellant is that no doubt whenever vacancy of fair price shop No.21 arises, it has to be notified in accordance with law, and he has to be given opportunity to apply for the same. Submission made before us is that liberty may be reserved to the appellant to apply against the said vacancy also, which liberty has not been reserved even in the order passed by the Joint Collector or in the order of the Collector or in the writ petition. The question whether the petitioner-appellant is eligible to be appointed as dealer of fair price shop No.21 does not arise since the petitioner's dealership qua Shop No.21 was cancelled on the ground that the Revenue Divisional Officer did not follow procedure prescribed in notifying the vacancy. The Joint Collector, however, left the question open saying that the Revenue Divisional Officer has to notify the vacancy. Therefore, we do not find any merit in the appeal. The question of petitioner's eligibility etc. will come up for consideration only before the Revenue Divisional Officer when shop No.21 is notified if it has so far not been notified, and in case the petitioner will be eligible and

entitled, nothing prevents him to apply when Shop No.21 is notified.

The writ appeal is dismissed. No costs.

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(DEVINDER GUPTA, C.J.)

5th October 2004.

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(C.V.RAMULU, J.)

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To

1.The District Collector (CS), Nizamabad District.
2.The Joint Collector (CS), Nizamabad.
3.The Revenue Divisional Officer, Nizamabad.
4.Two C.Cs to Govt. Pleader for Civil Supplies, High Court Bldgs., Hyderabad (OUT).

5.Two C.D. copies.